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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/430,536	10/29/1999	RENE LEERMAKERS	PHA-23.819	7444

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EXAMINER

HO, CHUONG T

ART UNIT PAPER NUMBER

2664

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/430,536

Applicant(s)

LEERMAKERS, RENE

Examiner

Chuong Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-22 and 24-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-22 and 24-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The Amendment filed 04/02/04 have been entered and made of record.
2. Claims 1-2, 4-22, 24-32 are pending.
3. Applicant's Amendment filed 04/02/04 have been fully considered but they are not persuasive.

Applicant alleged “ the specification discloses at least page 6, lines 26 to page 7, line 4 the “multiple channel will be utilized in order to provide sufficient communication bandwidth to enable the simultaneous broadcast of different software applications to a multiple of clients 50 that are simultaneously requesting a diverse suite of software applications...In this regard, as will be described hereinafter, each of the clients 50 preferably has the capability of tuning to any selected one of the plurality of different channels over which over which the software application are broadcast”.

The Applicant argument is not persuasive.

The limitations of claim 1 “simultaneous broadcast of a plurality of different software applications via a plurality of broadcast channels in communication with said return channel, and each respective portable client including selective tuning capability to selectively receive any of the plurality of the simultaneous broadcast different software applications over the return channel” was not described in the specification (page 6, lines 26 to page 7, line 4).

It is not enable the simultaneous broadcast of a plurality of different software applications via the return channel. Therefore, the claim 1 stand reject under 35 U.S.C. 112 first paragraph for the reasons indicated above.

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Claim Rejections - 35 USC § 112

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter “wherein the two-way communications link includes means for simultaneous broadcast of a plurality of different software applications via a plurality of broadcast channels in communication with said return channel, and each respective portable client including selective tuning capability to selectively receive any of the plurality of channels over the return channel” which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. “wherein the two-way communications link includes means for simultaneous broadcast of a plurality of different software applications via a plurality of broadcast channels in communication with said return channel, and each respective portable client including selective tuning capability to selectively receive any of the plurality of channels over the return channel” was not described in the specification .

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1-2, 4-22, 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arai et al. (U.S. Patent No. 6,532,591 B1), in view of Dillon (U.S. Patent No. 6,571,296) and further in view of Casagrande et al. (U.S. Patent No. 6,049,892).

In the claims 1, 21, Arai et al. discloses a software download system in which a computer software product such as a computer program is download with a broadcasting program from a center station (server) to each terminal (client) through a communication satellite, a broadcast satellite or a terrestrial television broadcasting service in a digital broadcasting (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31, the user (the client) can select one or more particular software product in cases where the user desires to download the particular software products from the center station (server)); comprising:

- ◆ a server system that stores software application (col. 6, lines 43-46, col. 9, lines 29-31, col. 12, lines 33-37);
- ◆ a broadcast system that broadcasts the software application (col. 6, lines 43-46, col. 9, lines 29-31, col. 12, lines 33-37);
- ◆ a multiplicity of portable clients that each include a receiver having a tuner that is selectively tunable to receive a selected one of the software applications broadcast by the broadcast system (col. 6, lines 43-46, col. 9, lines 29-31, col. 12, lines 33-37);
- ◆ a two way communication link between the server system and each of the multiplicity of portable clients, wherein the two-way communications link includes a forward channel over which the respective portable client can transmit client data to the server system, and

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a return channel over which the server can transmit system data to the respective portable client (col. 6, lines 43-46, col. 9, lines 29-31, col. 12, lines 33-37);

- ◆ wherein the server system includes a processor for enabling users to access a menu (guide table) of the software applications for selection (col. 6, lines 43-46, col. 9, lines 29-31, col. 12, lines 33-37).

However, Arai et al. is silent to disclosing a two-way communications link separate from broadcast system broadcasting application, two-way communications link being arranged between the server system and each of the multiplicity of multiple clients.

Dillon (U.S. Patent No. 6,571,296) discloses a two-way communications link separate from broadcast system broadcasting application, two-way communications link being arranged between the server system (140) and each of the multiplicity of multiple clients (110) (see col. 1, lines 65-67, col. 2, lines 1-7).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to make to modify Arai's system with the teaching of Dillon to provide a two-way communications link separate from broadcast system broadcasting application in order to recover the missing (corrupted) data from the broadcast system.

However, the combined system (Arai-Dillon) does not disclose to retransmit predetermined portions of lost/corrupted data that has been transmitted by server system, with a request for retransmission of missing/corrupted data.

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Casagrande et al. discloses the download of a data from a server computer to a client is monitored by the client. The download is restarted automatically if a failure occurs. A failure may be a timeout, a loss of a connection, data errors, or other errors that terminate the download. The download may be restarted by instructing the server to start reading from a specified offset corresponding to an amount of data was received reliably by the client, so that data is not unnecessarily retransmitted (see abstract); comprising:

- ◆ the two-way communications link includes for simultaneous broadcast of a plurality of different software applications via a plurality of broadcast channels in communication with return channel, and each respective portable client including selectively tuning capability to selectively receive any of the plurality of channels over the return channels (see col. 2, lines 64-67; col. 3, lines 41-55, col. 4, lines 1-15; col. 5, lines 5-12);
- ◆ to retransmit predetermined portions of lost/corrupted data that has been transmitted by server system, with a request for retransmission of missing/corrupted data (see col. 2, lines 64-67; col. 3, lines 41-55, col. 4, lines 1-15; col. 5, lines 5-12).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combined system (Arai-Dillon) with the teaching of Casagrande to retransmit predetermined portions of lost/corrupted data that has been transmitted by server system, with a request for retransmission of missing/corrupted data in order to increase the likelihood of success of the download and eliminate unnecessary data transfer (see Casagrande , col. 5, lines 12-13).

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7. In the claim 2, Arai et al. discloses the broadcast system is a wireless broadcast system (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

8. In the claims 4, 17, Arai et al. discloses each of the portable clients includes a modem for establishing the two-way communications link (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

9. In the claims 5, 6, 8, 16, 24, 25, 26, Arai et al. discloses the modem of each of the portable clients is a wireless modem (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

10. In the claim 7, Arai et al. discloses the broadcast system broadcast the software applications over different channels each occupying a different respective frequency band (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

11. In the claims 9, 22, Arai discloses the tuner of the receiver of each of the multiplicity of portable clients is selectively tunable to any selected one of the plurality of different frequency bands in order to receive one or more selected one of the software applications broadcasted by the broadcast system (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

12. In the claims 10, Arai discloses a two-way communications link between the server system and each of the multiplicity of portable clients, wherein the two-way communications link includes a forward channel over which the respective portable client can transmit client data to the server system, and a return channel over which the server system (the source system 11, 11')

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can transmit system data to the respective portable client (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

13. In the claim 11, Arai discloses the two-way communications link between the server system and each of the multiplicity of portable clients is a telephone connection (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

14. In the claim 12, Arai discloses each of the portable clients is a portable data communication device (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

15. In the claim 13, Arai discloses each of the portable clients includes a user-interface that enables a user to select one of the broadcasted software applications for downloading, and a processing for executing the downloaded software application (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

16. In the claim 14, Arai discloses the broadcast system broadcasts the software applications over different channels each occupying a different respective frequency band (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31)

17. In the claim 15, Arai discloses a two-way communications link between the server system and each of the multiplicity of portable clients, wherein the two-way communications link includes a forward channel over which the respective portable client can transmit client data to the server system, and a return channel over which the server system can transmit system data to the respective portable client (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

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18. In the claims 18, 27, Arai discloses instructions for supervising the downloading of software applications (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

19. In the claims 19, 28, Casagrande et al. (U.S. Patent No. 6,049,892) discloses request for unrecoverable software application data, and the system data include the unrecoverable software application data (see col. 2, lines 64-67; col. 3, lines 41-55, col. 4, lines 1-15; col. 5, lines 5-12).

20. In the claims 20, 29, Arai discloses the client data includes client software download request data, and the system data includes download control data issued in response to the client software download request data (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

21. In the claim 30, Arai discloses the broadcast system broadcasts the software applications over different channels each occupying a different respective frequency band; the tuner is selectively tunable to any selected one of the plurality of different frequency bands in order to receive the selected one of the software applications broadcasted by the broadcast system (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

22. Claims 31, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metz et al. (U.S. Patent No. 5,978,855), in view of Dillon (U.S. Patent No. 6,571,296) and further in view of Casagrande et al. (U.S. Patent No. 6,049,892)

In the claim 31, Metz et al. discloses the system provides for downloading application software and transmitting audio/video information through one channel of a digital broadcast network; comprising:

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- ◆ a server system that stores software application (see figure 1, col. 9, lines 6-7, server 12 includes executable application software or code);
- ◆ a broadcast system (source system 11, 11') that broadcasts the software application (see figure 1, col.9, lines 18-22, source system 11 offers a plurality of broadcast programs from source 13 and broadcasts software for the downloading service. Other source system such as system 11' may be identical to system 11 and offer both broadcast programming and software);
- ◆ a multiplicity of independent portable clients ("PDA", see col. 26, lines 1-4) that each include a receiver having a tuner (see col.5, line 60) that is selectively tunable to receive a selected one of the plurality of software applications be simultaneously broadcast by the broadcast system over a return channel from the broadcast system (see col. 6, lines 10-20, the application software comprises executable code for controlling operations of a digital set-top terminal in response to user inputs and a plurality of function calls for calling predetermined network communications function of software were resident in the digital set-top terminal. The functions calls include a channel change function call, and a function call for establishment of a two-way low-speed data communication. Examples of the storage medium include the random access memory in the digital set-top terminal and a memory within a software server (e.g. coupled to a communication network for broadcast of the software);

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- ◆ billing users a fee for receiving a selected one of the software applications (see col. 26, lines 25-33, figure 6 also shows the DET 102 including a magnetic card reader 153 connected to the microprocessor 110. This reader 153 could be used to scan credit card information encoded on magnetic strips on commonly available credit cards. In home shopping, and purchasing service, controlled by the downloaded software, the user would scan his or her own credit card through the magnetic card reader 153 as part of the payment operations. The reader could also have magnetic write capabilities to perform debit card operations);
- ◆ a two way communication link between the server system (source system 11, 11') and each of the multiplicity of portable clients, wherein the two-way communications link includes a forward channel over which the respective portable client can transmit client data to the server system, and a return channel over which the server can transmit system data to the respective portable client (see col.9, lines 60-65, the operating system and resident application provide all communications to nodes of the network 15, 16, for example to select broadcast channels and to establish two-way data communications);
- ◆ wherein the two way communication link includes for simultaneous broadcast of a plurality of different software applications via a plurality of broadcast channels in communication with return channel (see col.9, lines 60-65).

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However, Metz et al. is silent to disclosing wherein the server system receives a request for broadcasting the software applications by the portable clients over communication channels separate from the broadcast system.

Dillon (U.S. Patent No. 6,571,296) discloses a two-way communications link separate from broadcast system broadcasting application, two-way communications link being arranged between the server system (140) and each of the multiplicity of multiple clients (110) (see col. 1, lines 65-67, col. 2, lines 1-7).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to make to modify the system of Metz with the teaching of Dillon to provide a two-way communications link separate from broadcast system broadcasting application in order to recover the missing (corrupted) data from the broadcast system.

However, the combined system (Metz-Dillon) does not disclose to retransmit predetermined portions of lost/corrupted data that has been transmitted by server system, with a request for retransmission of missing/corrupted data.

Casagrande et al. discloses the download of a data from a server computer to a client is monitored by the client. The download is restarted automatically if a failure occurs. A failure may be a timeout, a loss of a connection, data errors, or other errors that terminate the download. The download may be restarted by instructing the server to start reading from a specified offset corresponding to an amount of data was received reliably by the client, so that data is not unnecessarily retransmitted (see abstract); comprising:

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- ◆ to retransmit predetermined portions of lost/corrupted data that has been transmitted by server system, with a request for retransmission of missing/corrupted data (see col. 2, lines 64-67; col. 3, lines 41-55, col. 4, lines 1-15; col. 5, lines 5-12).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combined system (Metz-Dillon) with the teaching of Casagrande to retransmit predetermined portions of lost/corrupted data that has been transmitted by server system, with a request for retransmission of missing/corrupted data in order to increase the likelihood of success of the download and eliminate unnecessary data transfer (see Casagrande , col. 5, lines 12-13).

23. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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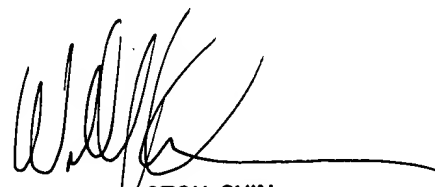
Conclusion

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong Ho whose telephone number is (703)306-4529. The examiner can normally be reached on Monday-Friday from 9am to 3pm.

24. Any inquiry of a general nature or relating to the status of this application or proceeding should be direct to the group receptionist whose telephone number is (703) 305-3900.

CH

Date 06-07-04

A handwritten signature in black ink, appearing to read 'W. Chin', with a long horizontal line extending to the right.

WELLINGTON CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600